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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,883	10/22/2003	James A. Fisher	TUC920030096US1	6818
46244	7590	02/06/2009		
LAW OFFICE OF CHARLES W. PETERSON, JR. TUCSON				
435B Carlisle Dr.				
Herndon, VA 20170				
EXAMINER				
PHAM, MICHAEL				
ART UNIT		PAPER NUMBER		
2167				
MAIL DATE		DELIVERY MODE		
02/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/690,883

Applicant(s)

FISHER ET AL.

Examiner

MICHAEL PHAM

Art Unit

2167

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/John R. Cottingham/
Supervisory Patent Examiner, Art Unit 2167

Claim status: Claims 8-25 are pending and unamended.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's assert the following in regards to the final office action.

A. Amendments made to the specification further defining a "computer-usable medium".

The objection would be correspondingly withdrawn.

B. Applicant asserts the 112 written description requirement is met. Asserting that Constantly changing certainly describes time varying. that Dynamic data is also understood to be varying. That System monitored parameters are time varying otherwise there would be no point in monitoring.

In response, the examiner disagrees. there is nothing in regards to time varying. The applicant cites paragraph 0003 stating that the system status information may be changing constantly. At best the paragraph discloses that the information is status information, and that this information changes, however this paragraph neither discloses nor states that it is time varying data and does not disclose any relation to time. Applicant further asserts that System monitored information presented in paragraph 0016 of the specification discloses time varying. Monitoring in and of itself does not necessarily relate to time, and therefore does not constitute as time varying data. System monitored parameters at best means to observe a system parameter. The specification therefore does not disclose "variable data being time varying data". At best the application discloses system monitored parameters, variable data, status information, and varying data. If "time" varying data was truly within the specification, applicant's need not provide such construing of the specifications.

C. Applicant's assert the 101 rejections directed to claims 8, 14, and 17.

In regards to claim 8 and 14, the examiner disagrees with applicant's that a data generation module, a collection of HTML template files and a page generation module combines the use of machines with a mental process. The modules themselves are directed towards software since as the application itself states in several paragraphs that these modules are code modules. There is simply no computer hardware within the collaborative design system being claimed as an element of the system. The rejection would therefore be maintained.

In regards to claim 17-19 and 24-25, applicant's amendment to the specification to describe that the computer usable medium comprises non-volatile and volatile storage. Regarding claims 17-19 and 24-25 these claims recite a computer usable medium. In the absence of any modifying disclosure of this limitation in the specification, the examiner would interpret the terms 'computer usable medium' as excluding printed paper, transmission media, signals, or any form of energy, such that the claim clearly falls within a statutory class of invention as required under the terms of 35 U.S.C. 101.

D. Applicant's assert that while the raw data is stored in database 132 in the bakman reference, that raw data is not time varying data. And therefore Bakman does not disclose "data generation module receiving raw data said raw data being time-varying data, variable data being generated from said time varying data for up to date display."

In regards to the raw data is not time varying data, this is disagreed, since the parsed data (e.g. raw data) is presented one variable at a time, it is considered time varying.

col. 11 lines 6-11 states "the data is then parsed into variable names and corresponding values in steps 330 and 350. The raw data is stored in a database 132. Doing so allows easy approach to different data views as needed. The parsed data is then presented, one variable at a time, to step 360 in which an instance model is created"

As stated in the rejection, a data generation module (figure 1 element 130, generator) receiving raw data (col. 11 lines 6-11, raw data) said raw data being time-varying data (col. 11 lines 6-11, parsed data is then presented, one variable at a time), variable data (col. 11 lines 6-11, variable) being generated from said time varying data (col. 11 lines 6-11, one variable at a time) for up to date display (col. 11 lines 6-11, presented)